Leary, with his extensive background and experience, augments the overall level of expertise available to the Board with its efforts in this highly sensitive and critical area of health and safety.

Additionally, the Board believes that a waiver of this potential OCI is proper as the possibilities of a direct conflict, or biased work product from Dr. Leary is remote based on the significant differences between his work for the Board and LANL. Specifically, Dr. Leary's technical efforts for the Board are related to unique problems or issues which exist at various facilities within DOE's nuclear weapons complex. He has provided technical assistance to the Board with its review of Savannah River Site (SRS) F-Canyon, HB-Line, and FB-Line chemical process startup activities and plutonium storage safety issues. Other examples of his work for the Board include an evaluation of the waste characterization program for the Hanford Waste Tanks, plutonium storage matters at Rocky Flats Site (RFS) and Pantex, and alternative decontamination processes at the Idaho Chemical Processing Plant, Idaho National Engineering Laboratory. Conversely, his consulting work at LANL includes the provision of a strategic overview of nuclear materials technology and management issues across a broad scope on an ad hoc basis, and not on specific programs or projects. Further, he has an association with LANL as a member of the Power Systems Subpanel (PSSP) which is a subpanel of the Interagency Nuclear Safety Review Panel. This group, which is comprised of individuals from the Department of Defense, DOE, and National Aeronautics and Space Administration, prepares the final safety evaluations for space flight using spacecraft powered by Radioisotope Thermoelectric Generators which contain significant amounts of plutonium-238. Dr. Leary serves as the nuclear materials expert on this panel which is funded through the Probabilistic Risk and Hazard Analysis Group at LANL. However, as this effort has no connection with the Board's work, and his other work at LANL does not overlap with Board projects, the changes of a OCI are unlikely.

Further, the Board examined Dr. Leary's current financial relationship with LANL, which includes a vested pension program and the consulting work described above, and considered the potential effect it may have on his objectivity in performing the Board's work. Based on this review, the Board determined that these relationships should not interfere with his work for the Board since the pension, and any

future increases, is calculated according to fixed formulas and prior contributions and his consulting work for LANL accounts for approximately twenty percent of his total yearly income. Therefore, as the pension is fixed and not subject to adjustment by LANL, and the value of the other work does not constitute a major portion of his income, the Board believes these should not have a negative impact on Dr. Leary's ability to be objective in his work for the Board.

The Board has also recognized that it is unlikely that the work being performed by Dr. Leary could be satisfactorily performed by anyone else whose experience and affiliations would not give rise to a potential conflict of interest question. This is due to the unique problems and technical challenges which exist within the weapons complex related to the processing and handling of nuclear materials. Consequently, those most familiar with these operations, and potentially best able to assist the Board, are those that gained this expertise through previous or current employment or consulting relationships with one or more of the DOE weapons facilities within the Board's oversight authority. The pertinent experience of other qualified individuals would therefore likely raise similar questions and concerns.

Finally, as the Board is required under its OCI Regulations, where reasonably possible, to initiate measures which attempt to mitigate an OCI, Dr. Leary and the Board agreed to the following during contract performance. The Board will not task Dr. Leary with any work which would conflict with his efforts at LANL. Dr. Leary has agreed to promptly notify the Board of and changes with his efforts at LANL which would give rise to a direct OCI with his work for the Board. Additionally, the efforts and products of Dr. Leary will be overseen by experienced technical staff of the Board who are able to ensure that all of his resultant work products are impartial and contain full support for any findings and recommendations issued thereunder.

Accordingly, on the basis of the determination described above and pursuant to the applicable provisions of 10 CFR 1706, the Chairman of the Board granted a waiver of any conflicts of interests (and the pertinent provisions of the OCI Regulations) with the Board's contract with Dr. Joseph A. Leary that might arise out of his existing relationship with LANL.

Dated: January 12, 1995.

Kenneth M. Pusateri,

General Manager.

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DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Intent to Prepare a Draft Supplemental Environmental Impact Statement (DSEIS) for the Proposed Southern Branch 40-foot Navigation Improvements in the Vicinity of Norfolk Harbor, Hampton Roads, Virginia

AGENCY: U.S. Corps of Engineers,

Norfolk District, DOD. **ACTION:** Notice of Intent.

SUMMARY: The U.S. Army Corps of Engineers, Norfolk District, prepared a feasibility report and final Environmental Impact Statement in 1980 titled "Norfolk Harbor and Channels, Virginia, Deepening and Disposal", which recommended further investigations leading to improvements to the Southern Branch portion of the project.

The recommended improvements consist of increasing the depth of the Southern Branch of the Elizabeth River between Norfolk and Western Railway Bridge at Mile 15 and U.S. Routes 460 and 13 highway crossing at Mile 17.5 from 35 feet to 40 feet over its existing 250- to 500-foot width and providing a new 800-foot turning basin at the terminus of the channel improvement.

ADDRESSES: U.S. Army Corps of Engineers, Norfolk District, 803 Front Street, Norfolk, Virginia 23510.

FOR FURTHER INFORMATION CONTACT: Comments and questions concerning the proposed action should be addressed to Mr. Richard Klein (804) 441–7125; questions regarding the DSEIS should be addressed to Mr. Terrence Getchell (804) 441–7617.

SUPPLEMENTARY INFORMATION:

1. The DEIS will be prepared in connection with a General Design Memorandum that will document the engineering and design investigations required to complete pans and specifications and actual construction. Authority for the work is provided by Section 201(a) of Public Law 99–662, enacted 17 November 1986. The feasibility report, published as House Document No. 99–85 dated 18 July 1985, recommended the improvements that are the subject of the DSEIS.